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Ser. No. 09/475,531

REMARKS

Claims 1-25 are pending in the application. The foregoing amendment amends Claims 1, 8 and 18. The Examiner has rejected Claims 1-25 in light of U.S. Patent No. 6,351,453 to *Nolting et al.* ("*Nolting*"), U.S. Patent No. 6,188,752 to *Lesley* ("*Lesley*") and U.S. Patent No. 4,517,411 to *Casner* ("*Casner*").

***Nolting* Does Not Describe, Teach or Suggest the Invention of Claims 23 and 24**

The Examiner rejected Claims 23 and 24 under 35 U.S.C. §102(e) as being anticipated by Column 30, lines 10-39 of *Nolting*. The cited section of *Nolting* describes identifying numbers that received a large volume of calls with short duration times. Once the numbers are identified, then the lines corresponding to the numbers are tested to determine whether the numbers are associated with calling card service owners, prepaid calling card numbers, credit card verification systems and the like. Once a line has been verified as being associated with a calling card service owner, etc., then the switches and billing system are modified to capture calls to that number for billing purposes.

Nolting only describes charging for calls placed to particular numbers. *Nolting* does not describe charging for all calls placed from a particular telephone. *Nolting* describes that a typical billing system does not record calls of a short duration. To solve the problem of not recording calls of short duration, *Nolting* describes a system that can identify and record calls to certain predetermined called numbers. However, if a short duration call is placed to a number that is not one of the predetermined called numbers, then it is not recorded.

In contrast, the claimed invention recites charging a set activation fee based on an originating telephone number associated with the set activation fee telephone. In the claimed invention, a set activation fee is charged for all calls placed from a set

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activation fee telephone, regardless of the called number. Claim 23 recites "determining whether the telephone call originated from a telephone having an originating telephone number that corresponds to an entry in a database" and "if so, then determining that a set activation fee applies to the telephone call." *Nolting* does not describe using a database to recognize a calling number or a calling device. Nor does *Nolting* describe charging a fee based on a calling number. *Nolting* only describes charging a fee based on a called number. Although *Nolting* describes operation with a coin phone, *Nolting* does not describe identifying a coin phone using a database or charging a fee based only on the identification of the calling phone.

Claim 23 recites using call parameters to calculate a first portion of the charge for the telephone call and adding a set activation fee as a second portion of the charge by a network element. The Examiner alleged that the LEC is entitled to 20 or 25 cents for every call from a coin phone to a number associated with a prepaid calling card. The Examiner also alleged that the cost of the call charged to the prepaid account includes a portion for the duration of the call and another portion for the LEC fee.

Claim 23 recites that the second portion of the charge, the set activation fee, is independent of the first portion of the charge. However, the LEC fee described by *Nolting* is not an independent charge. The LEC fee is charged if a call is placed to a predetermined called number. Factors, such as the calling number, the called number, the duration of the call, the time of day/day of week, determine the cost of a call. Because the called number determines the cost of a call and *Nolting* describes that the LEC fee is only charged for predetermined called numbers, the LEC fee described by *Nolting* is not independent of the cost of the call. Thus, *Nolting* does not describe a second portion of the charge for the telephone call, as recited by Claim 23.

Claim 23 recites adding the set activation fee as a second portion of the charge by a network element. *Nolting* does not describe that a network element adds a set

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activation fee as a second portion of a charge. Even if *Nolting* describes a first portion and a second portion of a charge, any charges to the prepaid account are handled by the prepaid calling card provider. The charges are not calculated by a network element, as required by Claim 23.

Claim 24 depends from Claim 23. The remarks made above to support the patentability of Claim 23 are equally applicable to distinguish Claim 24 from *Nolting*.

Nolting and Lesley Do Not, Either Singularly or in Combination Describe, Teach or Suggest the Invention of Claims 1-11 and 25

The Examiner rejected Claims 1-11 and 25 under 35 U.S.C. § 103(a) as being unpatentable over *Nolting* in view of *Lesley*. *Lesley* describes a network-based prepaid service that allows a customer to obtain telecommunication services without the need for a calling card. The Examiner alleged it would have been obvious to combine *Lesley* and *Nolting* so that a telephone owner can earn some profit and recoup losses from providing telephone service to telephone users. However, there is no motivation to combine *Nolting* and *Lesley* in the manner suggested by the Examiner.

Lesley teaches away from the system of *Nolting*. *Lesley* describes a network-based prepaid service that eliminates the need for a subscriber to use a calling card. Thus, a subscriber would not dial a number associated with a prepaid calling card provider. However, *Nolting* describes a system that identifies numbers associated with calling card providers and tracks calls placed to calling card providers. Because *Lesley* describes a system that would eliminate the need for a calling card provider and *Nolting* describes a system that identifies and tracks calls to calling card providers, the two references are inconsistent and cannot be combined in the manner suggested by the Examiner.

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Moreover, even if the references are combined they do not describe each and every element of Claim 1. The foregoing amendment to Claim 1 clarifies that the set activation fee for the telephone call is charged regardless of the telephone number called. The amendment also clarifies that the set activation fee is charged based on the identification of the telephone calls having the originating telephone number associated with the set activation fee telephone. As discussed above in connection with Claim 23, *Nolting* describes tracking calls to predetermined called numbers. *Nolting* does not describe charging a fee based only on an originating number. Nor does *Nolting* describe charging a fee for every call placed from the coin telephone. *Nolting* only describes charging a fee for calls placed to certain predetermined numbers. *Lesley* does not describe charging a set activation fee for the telephone call based on the identification of the telephone call as having the originating telephone number associated with the set activation fee telephone.

Claim 8 recites determining whether the telephone number corresponding to the pay telephone is present in the second database. Although the Examiner alleges that *Nolting* describes this element, *Nolting* does not describe the use of a database to identify a telephone for the purpose of charging a set activation fee. The foregoing amendment to Claim 8 also clarifies that the set activation fee is charged to the caller regardless of the telephone number called. As discussed above in connection with Claim 1, neither *Nolting* nor *Lesley* describes charging a set activation fee based on the originating number, regardless of the called telephone number.

Claims 2-7 and 9-11 and 25 depend from independent Claims 1, 8 and 23 respectively. The remarks made above to support the patentability of Claims 1, 8 and 23 are equally applicable to distinguish Claims 2-7, 9-11 and 25 from the cited references.

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Nolting, Lesley and Casner Do Not, Either Singularly or in Combination Describe, Teach or Suggest the Invention of Claims 12-22

The Examiner rejected Claims 12-22 under 35 U.S.C. §103(a) as being unpatentable over *Nolting* in view of *Lesley* and *Casner*. Casner describes allocating call charges to different stations within a PBX system. However, Casner only describes operation within a private branch exchange (PBX) system. See Abstract. In contrast, *Nolting* and *Lesley* only describe operation within a telecommunications network. Thus, there is no motivation to combine *Nolting*, *Lesley* and *Casner* in the manner suggested by the Examiner.

If the PBX-based system described by *Casner* is used to record calling parameters/charges, then the network-based system described by *Nolting* is unnecessary. Similarly, if the PBX-based system described by *Casner* is used to verify an originating station for billing purposes, then the network-based pre-paid system described by *Lesley* is unnecessary.

Nolting teaches away from *Casner* because *Nolting* describes the use of a coin phone, whereas *Casner* describes the use of a station within a PBX. There is no suggestion that the coin phone described by *Nolting* could be integrated into the PBX system described by *Casner*. *Lesley* describes a network-based prepaid telephone service. If the network-based system is used, then there is no need to verify the originating station as described by *Casner*.

Even if the references are combined, the combination does not describe each and every element of Claim 12. Claim 12 recites a system for charging a set activation fee that includes a set activation fee pay telephone, a first network element and a second network element. The set activation fee pay telephone is operative to internally generate a dial tone for presentation to the caller, receive a telephone number and billing information from the caller, transmit the billing information to a

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first network element, monitor call parameters and receive a control signal from the first network element. The Examiner admits that neither *Nolting* nor *Lesley* describes a telephone that internally generates a dial tone for presentation to a caller. However, the Examiner alleges that *Casner* describes generating a false dial tone. *Casner* describes a dial tone generated by a PBX. However, the dial tone generated by the PBX is distinguishable from the dial tone recited by Claim 12 because the dial tone recited by Claim 12 is generated by the set activation fee pay telephone, not by an external network, such as a PBX.

Moreover, as discussed above in connection with Claims 1, 8 and 23, *Nolting* describes tracking calls to predetermined called numbers and charging a fee based on a called number. *Nolting* does not describe charging a fee based only on an originating number.

Claim 18 recites generating a false dial tone by a set activation fee telephone. As described above in connection with Claim 12, the cited references do not describe the generation of a false dial tone by a set activation fee telephone. Claim 18 also recites receiving the called telephone number and billing information at a network element. *Casner* describes receiving a called telephone number and billing information within the PBX. Thus, *Casner* teaches away from Claim 18 because *Casner* describes that the PBX receives the telephone number and the billing information, rather than a network element, as recited by Claim 18. In addition, Claim 18 recites charging the set activation fee for the telephone call regardless of the called telephone number. As discussed more fully above, none of the cited references describe charging a set activation fee regardless of the called telephone number.

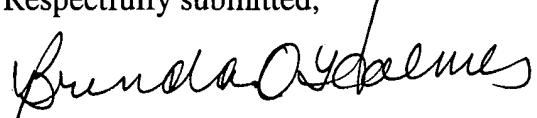
Claims 12-17 and 19-22 depend from independent Claims 8 and 18 respectively. The remarks made above to support the patentability of Claims 8 and 18 are equally applicable to distinguish Claims 12-17 and 19-22 from the cited references.

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CONCLUSION

In light of the foregoing, it is submitted that the pending claims are allowable and a notice of allowance is respectfully requested. If there are any issues that can be resolved via a telephone conference, the Examiner is invited to contact Brenda Holmes at 404.685.6799.

Respectfully submitted,



Brenda O. Holmes
Reg. No. 40,339

Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309
(404) 815-6500
BellSouth File: 99029
KS File: 36968/211180

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Version of the Amendments With Markings to Show Changes Made

1. (Amended) A method for providing remote access to a public switched telephone network by offsetting the service cost through charging a set activation fee, comprising:

receiving, at a network element, a telephone number and billing information from a set activation fee pay telephone, the set activation fee pay telephone associated with an originating telephone number;

determining whether the billing information is valid;

if the billing information is valid, then placing a telephone call to the telephone number received from the set activation fee pay telephone;

identifying the telephone call as having the originating telephone number associated with the set activation fee telephone; and

based on the identification, charging the set activation fee for the telephone call regardless of the telephone number.

8. (Amended) In a public switched telephone network, a method for charging a set activation fee to a caller using a pay telephone, comprising:

receiving, at a network element, a telephone number corresponding to a called terminating element;

receiving, at the network element, billing information;

determining whether the billing information is present within a first database;

in the event that the billing information is present in the first database, placing the telephone call;

otherwise, informing the caller that the telephone call may not be placed;

determining whether the telephone number corresponding to the pay telephone is present in a second database; and

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in the event the telephone number corresponding to the pay telephone is present in the second database, charging a set activation fee to the caller at the termination of the telephone call regardless of the telephone number.

18. (Amended) A method for charging a set activation fee for a telephone call directed to a called telephone number, comprising:

generating a false dial tone by a set activation fee telephone;
receiving the called telephone number and billing information at a network element;
maintaining the false dial tone;
determining whether the billing information is valid;
if the billing information is valid, then releasing the false dial tone;
seizing a true dial tone;
placing the telephone call to the called telephone number; and
charging the set activation fee for the telephone call regardless of the called telephone number.